IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 959 of 1994
WITH
SPECIAL CIVIL APPLICATION No. 960 of 1994
WITH
SPECIAL CIVIL APPLICATION No. 962 of 1994
WITH
SPECIAL CIVIL APPLICATION No. 963 of 1994
WITH
SPECIAL CIVIL APPLICATION No. 964 of 1994
WITH
SPECIAL CIVIL APPLICATION No. 965 of 1994
WITH
SPECIAL CIVIL APPLICATION No. 967 of 1994
WITH
SPECIAL CIVIL APPLICATION No. 968 of 1994
WITH
SPECIAL CIVIL APPLICATION No. 9857 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KAUSHIK KANTILAL MODI - Petitioner(s)

Versus

SAURSHTRA KUTCH STOCK EXCHANGELTD. & 2 - Respondent(s)

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Appearance :
MR ARUN H MEHTA for Petitioner(s) : 1,
MR HARIN P RAVAL for Respondent(s) : 1, 3,
MR JITENDRA MALKAN for Respondent(s) : 2,
MS DHARMISHTA RAVAL for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 25/11/2005

ORAL JUDGMENT

1.In these group of petitions, the respective petitioners have prayed for appropriate writ, direction and/or order under Article 226 of the Constitution of India that the second screening committee constituted is illegal, *ultra vires* and bad in law and that any selection made by the said screening committee by which applicants who had applied for being enrolled as members/brokers of the First Respondent Stock Exchange including the 120 members who are already selected by the said screening committee and rejection of the petitioner and others, bad in law and. It is also further prayed for a direction directing the respondent to constitute an appropriate new screening committee in accordance with law, with a directions that such committee should prescribe and make publicly known the guidelines or criteria or norms with reference to which an applicant is to be selected for being enrolled as a member/stock broker of the Stock Exchange and which guidelines, norms or criteria do not violate the provisions of the Securities Contract (Regulation) Act and the rules framed thereunder and the notification

issued by the State Government and/or SEBI and thereafter select the members/stock brokers of the first Respondent out of the applicants in accordance with law.

2. It appears from the record that the applications submitted by the petitioners were rejected for an enrollment as a member of share broker of the Respondent Stock Exchange. It appears that the main ground of challenge is that the Selection Committee selected members in violation of the norms/condition prescribed by SEBI. It is the contention on behalf of the petitioners that the said committee considered the wealth of all the family members when the SEBI directed the said committee to consider the wealth of the applicant only. It appears from the record, more particularly from the letter of SEBI dated 31-1-1994, which is on page 277 that one applicant Shri Harsukhlal N Buddhdev approached the SEBI making a grievance rejecting his application for an enrollment as a member of the respondent Stock Exchange and the SEBI rejected the grievance of the said applicant against selection made and the applications of some applicants being rejected by stating that the selection was as per the guidelines approved by the SEBI. It appears that whatever may be departure from the original guidelines

prescribed by SEBI, subsequently SEBI has sanctioned and approved such departure. Even otherwise the dispute in question is covered by the judgment of the Division Bench of this court reported in 1995(2) GLR 1891 in the case between Ojas v Khkhodagi Vs Saurashtra Kutch Stock Exchange Ltd.

3. For the reasons as stated above and the aforesaid Division Bench judgment rendered in the case of Ojas V Khakhodagi Vs Saurashtra Kutch Stock Exchange Ltd(supra), all these petitions are required to be dismissed and are accordingly dismissed. Rule discharged in each of the petition. However, there will be no order as to costs.

(M.R.SHAH,J)

shekhar/-